



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 7032-99

27 January 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy filed enclosure (1) with this Board requesting that the reason for her separation program designator (SPD) be changed to establish eligibility for the Montgomery G.I. Bill (MGIB).

2. The Board, consisting of Mr. Pfeiffer, Ms. Madison and Ms. Taylor, reviewed Petitioner's allegations of error and injustice on 1 February 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Navy on 2 June 1993 at age 18. Subsequently, she elected to participate in the MGIB. The administrative separation documentation is not in the record, but the DD Form 214 shows that she was honorably released from active duty on 15 December 1994 due to pregnancy or childbirth. She was assigned an SPD code of MDF, which indicates that her separation was voluntary. At that time, she had completed 1 year, 6 months and 14 days of active service.

d. The Board is aware that Petitioner is not eligible for the MGIB because she did not complete 30 months of active duty, and there is no provision in the law which would allow Petitioner's \$1,200 MGIB payment to be refunded to her. However, she would be eligible for payments under the MGIB based on her 15 months of active service if her separation was involuntary. As previously noted, the SPD of MDF indicates that her separation was voluntary. Therefore, she is being denied all MGIB benefits. An SPD of JDF would indicate that her separation was involuntary, and she would be entitled to 15 months of MGIB benefits.

e. Petitioner states that she was stationed in Hawaii and did not believe it was wise to try and raise a child alone away from her family. She felt that discharge was in the best interest of her unborn child. She further states that she was completely unaware that her early discharge would make her ineligible for MGIB benefits.

f. The Board is also aware that if the child had been born she probably would not have been able to stand watches or be eligible for shift work or deployments. If this was the case, and she could not sign an dependent care certificate, she would have been involuntarily discharged.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that although she requested discharge, it appears that she really did not have many options in the matter. In this regard, it appears to the Board that had she not requested discharge, she eventually would have been processed for an involuntary separation due to her inability to provide a valid dependent care certificate. Given the circumstances, including her satisfactory record of service, the Board concludes that Petitioner SPD should be changed to JDF so that she can obtain 15 months of MGIB benefits.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 15 December 1994 she was assigned a Separation Program Designator (SPD) of JDF vice the SPD of MDF now of record.

b. That this Report of Proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and

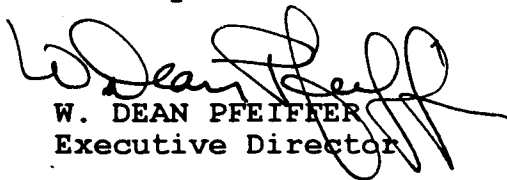
complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director